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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/733,030	12/11/2003	William R. Morton	5737700/25422	8419

7590

08/08/2005

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EXAMINER

MCCARRY JR, ROBERT J

ART UNIT

PAPER NUMBER

3617

DATE MAILED: 08/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/733,030

Applicant(s)

MORTON ET AL.

Examiner

Robert J. McCarry, Jr.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 26 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-22 and 24-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 and 24-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 5-8, 19-21, and 24-27 are rejected under 35 U.S.C. 102(b) as being anticipated by Baebel (US 5,312,162).

Baebel discloses a container for carrying flowable cargo comprised of a frame enclosure having a top section, a bottom, side walls, a front wall and a back wall. The Examiner has interpreted the top surface of the side walls to be the top of the container. A non-stick liner is situated on the interior of the container in the form of overlapping sheets 18a-18j and secured by bolts. The sheets also include funnel panels 91a-91d as shown in figure 17, which make up belly doors for emptying the contents of the container. The belly doors are of the same construction as the walls, wherein a non-stick panel is situated to the exterior panel. The sheets are made of a non-stick polyboard material as described in column 5, lines 18-35. A reinforcement rail on the underside of the container supports the funnel panels. This rail is shown in figures 17 and 18 between the door openings. A series of hinges 104, 105 secure the panels to the bottom of the enclosure and allow for the pivoting of the panels between an opened and closed position.

Regarding claim 26 drawn to the method of preserving flowable cargo. Baebel provides a container for storage and transport of the flowable cargo. The container has a top, bottom, side walls, front wall and rear wall, a liner secured to the interior and belly doors for the removal of the cargo. The container is loaded moved and then unloaded.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4, 9, 10, 11 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dohr (US 6,363,863).

Baebel discloses the cargo container as disclosed above. However, Baebel does not disclose the container to have a permanent airtight top with hatches for introducing cargo, or a belly door operated by a rack and spur mechanism. Baebel also does not disclose the feature of the cargo container being divided by container walls. Dohr discloses a cargo container having an airtight top with hatches, divider walls and a belly door operated by a rack and spur mechanism. It would have been obvious to one of ordinary skill in the art to have combined a non-stick liner, like that of Baebel, with a container, like that of Dohr, to provide multiple sections for various types of cargo and an air tight container to keep some cargo like that of food fresh and free from contaminants and a rack and spur operated door to allow for easier opening and closing of the belly doors to more quickly off load the cargo.

Claims 12-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baebel as described above.

It is well known in the art that containers like that of Baebel carry cargo like that of grain, corn or rice. It would be an obvious intended use to one of ordinary skill in the art to have a container like that of Baebel carry grain, corn rice or other such cargo.

### ***Response to Arguments***

Applicant's arguments filed May 26, 2005 have been fully considered but they are not persuasive. Applicant states that claims 19 and 23-25 were not rejected in the office action. The features of the claims are explained in the rejection above just as they were in the original non-final office action. The support plates and support rail are fitted between the structure of the vehicle and the liner, as shown in figure 17 at either end of the vehicle.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of


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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert J. McCarry, Jr. whose telephone number is (571) 272-6683. The examiner can normally be reached on Monday through Friday 7:00am to 3:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, S. Joseph Morano can be reached on (571) 272-6684. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Robert J. McCarry, Jr.  
Examiner  
Art Unit 3617

RJM  
July 26, 2005

  
S. JOSEPH MORANO  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600